HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE G.V.SEETHAPATHY

WRIT APPEAL NO.693 OF 2006

Between:

B. Kothakota Grampanchayat

. . .Appellant

AND

Shaik Khadervalli and others

. . .Respondent

Counsel for the appellant : Sri K.Mahadeva
for Sri K.G.Krishnamurthy

Counsel for the respondent Nos.1 & 2 : Shri M.D.Saleem

Counsel for the respondent No.3 : Shri K.Upender Reddy

Counsel for the respondent No.4 : Government Pleader
for Revenue

Dated: 26th June, 2006

: JUDGMENT :

PER G.S.SINGHVI, CJ

This is an appeal by Gram Panchayat, B.Kothakota through its President Shri E.Nagaraju, Son of Laxmanna, for setting aside order dated 5-12-2005 passed by the learned Single Judge in Writ Petition No.25938 of 2005 (Shaik Khadervalli and another v. The Secretary, B.Kothakota Gram Panchayat and others).

We have heard learned counsel for the parties and perused the record. In our opinion, the appeal is liable to be dismissed because,

a) Shri E.Nagaraju has not produced any evidence before the Court to show that he has been authorized by the Gram Panchayat as a body corporate to institute this appeal;

b) the order passed by the learned Single Judge directing Secretary, B. Kothakota Gram Panchayat not to demolish the structures belonging to the writ petitioners on land measuring Ac.1-59 cents comprising in Survey Nos.717 and 718 at Panchayat Office Road, is most innocuous. It does not, in any manner, affect the right of the Gram Panchayat to take action against the writ petitiosners in accordance with law;

c) The apprehension of Shri E.Nagaraju that due to mention of his name in the body of the writ petition filed by respondent Nos.1 and 2, the Gram Panchayat may not be in a position to take action against the alleged illegal construction raised by respondent No.1 is totally

unfounded.

Hence the appeal is dismissed.

While dismissing the appeal, we deem it necessary to observe that the writ petition filed by respondent Nos.1 and 2 was not properly constituted inasmuch as Gram Panchayat, B. Kothakota had not been impleaded as party respondent and this grave lacuna was overlooked by the learned Single Judge while disposing of the writ petition on merits. In our considered view, the learned Single Judge ought to have dismissed the writ petition only on the ground of non-impleadment of the Gram Panchayat as party respondent.

G.S.SINGHVI, CJ

G.V.SEETHAPATHY, J

Date: 26.06.2006

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